

Mark Pruhenski
Town Manager

E-mail: mpruhenski@townofgb.org
www.townofgb.org



Town Hall, 334 Main Street
Great Barrington, MA 01230

Telephone: (413) 528-1619 x2
Fax: (413) 528-2290

TOWN OF GREAT BARRINGTON MASSACHUSETTS

OFFICE OF THE TOWN MANAGER

Selectboard Meeting Agenda
Wednesday September 9, 2020, at 6:00 PM
Meeting held via Zoom
Order of Agenda

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/85109148415?pwd=RUZkZmN3S0lGNEV6S2tQbHUwRmMxQT09>

Webinar ID: 851 0914 8415

Passcode: 792792

Dial-in, audio-only: (929) 205 6099

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting of the Great Barrington Selectboard will be conducted via remote participation to the greatest extent possible. Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found on town's website, at www.townofgb.org. For this meeting, members of the public who wish to listen to the meeting may do so by following the instructions at the top of the agenda. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post on the town's website an audio or video recording, transcript, or other comprehensive record of proceedings as soon as possible after the meeting.

*****ALL VOTES ARE ROLL CALL*****

6:00 PM - OPEN MEETING

1. CALL TO ORDER
2. SELECTBOARD'S ANNOUNCEMENTS/STATEMENTS:
3. TOWN MANAGER'S REPORT:
4. NEW BUSINESS
 - a. Overview discussion of the Special Town Meeting, on September 15, 2020. (Discussion)
5. LICENSES OR PERMITS
 - a. William Nolan for proposed amendments of the Covenants in the 2005 approved common driveway (#10-2005) located on Blue Hill Rd. (Discussion/Vote)
6. FY21 TAX CLASSIFICATION HEARING (Discussion/Vote)

7. CITIZEN SPEAK TIME: *Citizen Speak Time is an opportunity for the Selectboard to listen to residents. Topics of particular concern or importance may be placed on a future agenda for discussion. This time is reserved for town residents only unless otherwise permitted by the chair, and speakers are limited to 3 minutes each.*
8. SELECTBOARD'S TIME:
9. MEDIA TIME:
10. ADJOURNMENT:

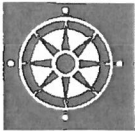
NEXT SELECTBOARD MEETING:

Regular Meeting September 14, 2020
Special Town Meeting September 15, 2020
Regular Meeting September 21, 2020

/s/ Mark Pruhenski

Mark Pruhenski, Town Manager

Pursuant to MGL. 7c. 30A sec. 20 (f), after notifying the chair of the public body, any person may make a video or audio recording of an open session of a meeting of a public body, or may transmit the meeting through any medium. At the beginning of the meeting, the chair shall inform other attendees of any such recordings. Any member of the public wishing to speak at the meeting must receive permission of the chair. The listings of agenda items are those reasonably anticipated by the chair, which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may be brought up for discussion to the extent permitted by law.



**McCormick, Murtagh
& Marcus**

ATTORNEYS AND COUNSELORS AT LAW

William Cullen Bryant House
390 Main Street, Suite 2
Great Barrington, MA 01230

phone: 413.528.0630

fax: 413.528.5287

www.mccormicklegal.com

August 18, 2020

Board of Selectmen
Stephen Bannon, Chair
334 Main Street,
Great Barrington, MA 01230

Kathleen M. McCormick, Esq.

Re: Nolan – Blue Hill Common Driveway #10-2005

Dear Mr. Bannon,

Please be advised, I represent William Nolan, owner of lots on Blue Hill Road, Great Barrington, MA. My client obtained a Common Driveway Permit from the Board of Selectmen in 2005 (see permit #10-2005). This letter is intended to summarize the status of the Common Driveway and to request your approval of the proposed amendment of the Declaration of Covenants, Easements and Restrictions ("Covenants"). The Covenants were approved by Town Counsel. These Covenants made reference to the Greylock Plan (entitled "Proposed Common Driveway Plan for William F. Nolan", by Greylock Design Associates on 6/21/05). However, the driveway was not installed as proposed, but the location was altered during the stream crossing permitting with the Conservation Commission. SK Design Group, Inc prepared the Conservation Commission plans and accurately depicted the driveway location.

I have updated the approved Covenants to remove reference to the proposed locations in the Greylock Plan and have incorporated reference to the accurate SK Design Plan. Since the original Covenants require Selectboard approval for Amendments, I request your approval.

If you have any questions, please do not hesitate to contact me.

Sincerely,

McCormick, Murtagh & Marcus

Kathleen M. McCormick

KMM/kmh

cc: Mark Pruhenski
Chris Rembold

Enclosures



DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS

William Nolan ("Nolan"), owner of certain real estate in Great Barrington, Massachusetts, conveyed to him by deed of Bruce M. Gore and Elizabeth M. Gore dated June 2, 2004 (the "Premises"), recorded at the Southern Berkshire Registry of Deeds (the "Registry") in Book 1532, Page 271, hereby declares, for himself, and his heirs, successors and assigns, the following Covenants, Easements and Restrictions applicable to the Premises.

ARTICLE I

Descriptions and Definitions

1.1 The Premises are divided into three separate building lots, numbered Lots 1, 2 and 3 (jointly the "Lots", individually referred to by lot number), as shown on the PLAN OF LAND SURVEYED FOR WILLIAM NOLAN, Great Barrington, Massachusetts, June – 2004, Scale 1" = 50' recorded at the Registry in Plat File M-169. Each Lot comprises a separate residential building lot.

1.2 The Lots share a common driveway providing access from Blue Hill Road, crossing Lot 2 and Lot 3 and providing access to the interior of Lot 2, and designated on the plan COMMON DRIVEWAY PLAN Prepared for William Nolan, Blue Hill Road, Great Barrington, Massachusetts Prepared by SK Design Group, Inc. (the "SK Plan") attached hereto (the "Common Driveway").

1.3 The Common Driveway shall be deemed to be that area indicated and shaded on the SK Plan, as from Blue Hill Road north to the point where the driveway for Lot 1, 2, and 3 intersect.

ARTICLE II

Declaration of Easements

2.1 Nolan desires and intends to provide to himself and his heirs, successors and assigns, the anticipated owners of the Lots (the "Owners", and individually as indicated by lot number), access on foot and by motor vehicles to the Lots over the Common Driveway, and hereby makes the following declarations in furtherance of this desire and intention. Lots 1, 2 and 3 are hereby burdened by, and benefited by, these declarations.

2.2 Lot 2 is subject to the right, by easement, of the Owners of Lots 1 and 3 to pass over Lot 2 on the Common Driveway. Lot 3 is subject to the right, by easement, of the Owners of Lots 1 and 2 to pass over Lot 3 on the Common Driveway.

ARTICLE III

Maintenance

3.1 Nolan hereby declares that a maintenance association shall be formed and referred to as the Blue Hill Association, whose members shall be the Owners of the Lots.

3.2 Each Owner, by acceptance of a deed, is deemed to covenant and agree to pay to Blue Hill Association annual assessments and charges and special assessments for capital improvements, established and collected as set forth below. All such assessments, together with interest, costs and attorneys fees if delinquent, shall be charged on said Lots and land and shall be a continual lien upon the property.

3.3 The assessments levied by the Blue Hill Association shall be exclusively to improve, repair and maintain the Common Driveway and to implement and enforce all applicable approvals and restrictions provided in this Article. The annual assessment for each Lot shall be one third (1/3) the cost to improve, maintain and repair the Common Driveway, along with the cost to implement and enforce all applicable approvals and restrictions as provided herein. The Blue Hill Association shall, upon demand, for a fee (equal to the fee provided by statute for the furnishings of a municipal lien certificate), furnish a certificate signed by the Director of the Blue Hill Association setting forth whether the assessment on a specified Lot has been paid. A certificate so issued shall constitute conclusive evidence of payment unless otherwise noted thereon.

3.4 The members of the Blue Hill Association shall meet each year on the last Saturday in March to elect a Director and to fix the amount of the annual assessment for the year beginning on the following May 1st. The Blue Hill Association may at any annual or special meeting of its members impose special assessments on the Owners and the Lots to defray any unusual need of the Blue Hill Association. Such assessment and collection thereof shall be administered as if they were annual assessments.

3.5 Any assessment not paid to the Blue Hill Association within thirty (30) days after the due date shall bear interest from the due date at a rate of twelve percent (12%) per annum. The Blue Hill Association may bring an action at law against the Lot Owner personally obliged to pay same, or to foreclose the lien against the property. No Owner may waive or otherwise avoid liability for the assessments by non-use, abandonment of the Lot or construction of another driveway.

3.6 The lien of the assessments provided hereunder shall be subordinate to the lien of any first mortgage to a bank or other lending institution. Sale or transfer of any Lot shall not affect such lien; however, the sale or the transfer of the Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien relating to those payments which became due prior to such sale or foreclosure. No sale or transfer by a foreclosing mortgagee shall relieve such Lot from liability for any assessments incurred after the foreclosure.

3.7 Members of the Blue Hill Association shall be entitled to one vote for each Lot in which they hold an interest. When more than one person holds such interest in any Lot, all such persons shall be members and the vote for such Lot shall be exercised as they may among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot.

3.8 Meetings of the members may be called for such time and such place as the Director of the Blue Hill Association may from time to time determine. The Director may call a special meeting of the members to be held at any time upon fourteen (14) days' written notice to the Owners or within thirty (30) days of the written request of fifty percent (50%) of the members for whatever purpose those requesting the same may specify. A written notice stating the place, day, hour and purpose of each meeting of the members shall be mailed to each owner at his or her address appearing in the records of the Blue Hill Association at least five (5) days before the date of such notice. A quorum at any meeting of the members shall consist of a majority of the members and such members may act as a majority vote of those present.

3.9 The Director of the Blue Hill Association shall be empowered to carry out the purpose of the association which is to provide for the improvement, repair, plowing,

snow removal, and maintenance of the Common Driveway and to implement and enforce all applicable approvals and restrictions provided herein. The Director shall serve a term of one (1) year ending at the annual meeting following his or her election. A Director may be removed from office by a vote of the majority of the Lot Owners with a notice filed with the Southern Berkshire Registry of Deeds. The removal may also contain the appointment of a new Director to fill the vacancy so created.

ARTICLE IV

Indemnification

4.1 Each of the Owners shall indemnify had hold the other Owners harmless from and against any loss, damage or liability arising out of the indemnifying Owner's use of the Common Driveway, and arising from the action, inaction or negligence of the indemnifying Owner.

ARTICLE V

Amendment

5.1 This Declaration may be amended by a writing executed by at least two (2) of the Lot Owners, as well as approval of the Great Barrington Board of Selectmen, and filed with the Southern Berkshire Registry of Deeds.

Witness my hand and seal this _____ day of _____, 2020.

William Nolan

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, SS.

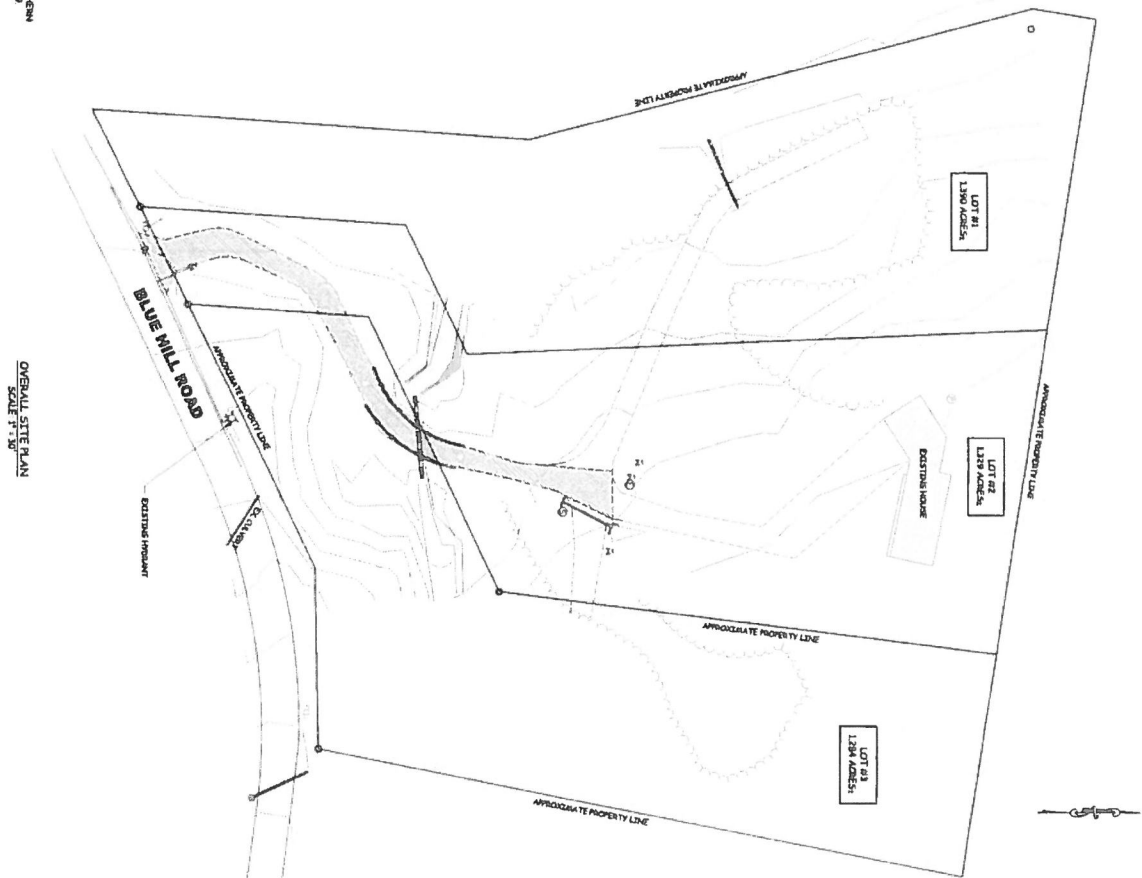
_____, 2020

On this _____ day of _____, 2020, before me, the undersigned notary public, personally appeared William Nolan, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public

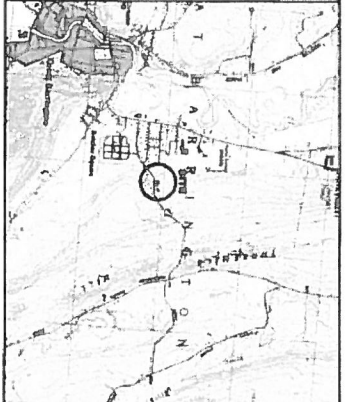
My Commission Expires: _____

NOTE:
 ALL LOT ADRESSES TAKEN FROM SOUTHERN
 BARRINGTON MAPSHEET OF DEEDS PLAN #1018



OVERALL SITE PLAN
 SCALE: 1" = 50'

COMMON DRIVEWAY PLAN
 PREPARED FOR
WILLIAM NOLAN
 BLUE HILL ROAD
 GREAT BARRINGTON, MASSACHUSETTS



- LEGEND
- EXISTING CONTOUR
 - IRON PIPE FOUND
 - PROPERTY LINE
 - EXISTING SINKER LINE
 - EXISTING SINKER HOLE
 - EXISTING WATER MAIN
 - EXISTING WATER VALVES
 - EXISTING DRAIN PIPE
 - EXISTING DRIVE DRIVE
 - EXISTING DRIVE DRIVE
 - EXISTING SHARED DRIVE
 - STREAM
 - WETLAND BOUNDARY

DATE	DESCRIPTION
11/1/06	1
11/1/06	1



Design Group, Inc.
 Civil Engineers • Surveyors • Consultants
 1012063
SITE PLAN

COMMON DRIVEWAY PLAN
 PREPARED FOR
WILLIAM NOLAN
 LOCATED AT
 BLUE HILL ROAD
 GREAT BARRINGTON MASSACHUSETTS

Don C.

TOWN OF GREAT BARRINGTON Fe 14135262190

Jun 15 2005 16:59

P.02

Fee 10.00

TOWN OF GREAT BARRINGTON

Number 10-2005

Application for Access to Public Way
(to be submitted in triplicate)

Date of application June 27, 2005

Name of applicant (property owner) William Nolan

Address of applicant (mailing address) P.O. Box 346

West Stockbridge, MA 01266

Telephone number of applicant 413 232 4452

Location of proposed highway entrance Blue Hill Road

Contractor Nolan Trucking & Excavating, Inc.

Address of contractor P.O. Box 346, West Stockbridge, MA 01266

Proposed construction date July 15, 2005

Type of driveway (gravel, asphalt, etc.) Gravel

Attach an Accurate Drawing of Proposed Highway Entrance

The applicant hereby agrees to notify the Great Barrington Highway Superintendent of the date and time of driveway construction at least 24 hours before construction is begun. The applicant further agrees to conform to all requirements of the Town of Great Barrington regulation of access to public ways (as most recently revised) and to all conditions set forth in the permit.

Applicant's signature William Nolan

Recommendation of Highway Superintendent

I recommend that this application be
() approved () subject to conditions stated on the attached reverse.
() disapproved for reasons given on the reverse.
() resubmitted with changes suggested on the reverse.

Highway Superintendent's signature Ronald Chate Date 8/25/05

Permit for Access to Public Way

Permission is hereby granted to William Nolan
to (X) construct or () alter an access to the public way
at Blue Hill Road as shown on the application
for access to public way dated June 27, 2005, subject to conditions
stated on the reverse. Date Sept. 6, 2005

GREAT BARRINGTON BOARD OF SELECTMEN

Therese F. Beckwith
Judith A. Kuyper

§ 153-17. Continuing responsibility of owners.

Abutting property owners shall be responsible for keeping culverts under their driveways cleared and for maintaining driveways in condition conforming to the requirements of the permit and to the intent and spirit of this Article. Driveways already in existence on the effective date of this Article shall be maintained by the abutting property owners in their best preexisting condition.

§ 153-18. Waiver of compliance.

Strict compliance with the requirements of this Article may be waived by the vote of the Board of Selectmen at a duly posted meeting when in the judgment of the Board such action is in the public interest and not in opposition to the intent of the Article.

ARTICLE III**Common Driveways**

[Adopted 5-6-1991 ATM, Art. 18]

§ 153-19. General requirements and restrictions.

- A. Permits. Any abutting property owner(s) desiring to gain access to a way by means of a common driveway that serves no more than three (3) dwelling units may do so only in accordance with the provisions of a permit issued by the Board of Selectmen.
- B. Number of units accessed. A common driveway shall provide access to no more than three (3) dwelling units.
- C. Frontage. Frontage on a common driveway may not be used to satisfy zoning frontage requirements. Each lot passed by the common driveway shall have access on a way acceptable to the Planning Board.
- D. Design requirements. Design requirements for common driveways shall be the same as those for driveways under § 153-14A through K of the Subdivision Rules and Regulations of the Great Barrington Planning Board. The design shall, in the opinion of the Board of Selectmen and the Highway Superintendent, assure adequate safety and access for emergency vehicles.

- E. Origin or driveway. A common driveway must originate on approved frontage and must observe a twenty-five-foot setback from the side line between the lot of origin and a lot not served by the common driveway.
- F. Minimum width. The traveled way shall have a minimum width of fourteen (14) feet.
- G. Easements. The application for a common driveway must be accompanied by a declaration of covenants, easements and restrictions for the use and maintenance of said common drives.
- H. The sale of lots and/or the erection of buildings is prohibited until such time as the common driveway has been constructed in accordance with the permit approval plan and until the Board of Selectmen has written verification that all covenants, easements and restrictions have been recorded in the Southern Berkshire Registry of Deeds.

Donald A. Chester, P.E.
Town Engineer/DPW Superintendent



Town Hall, 334 Main Street
Great Barrington, MA 01230

Telephone: (413) 528-0867
Fax: (413) 528-2290

TOWN OF GREAT BARRINGTON MASSACHUSETTS

DEPARTMENT OF PUBLIC WORKS

Conditions on Application for Common Driveways

Applicant: William Nolan
Location: 31 Blue Hill Road
From: Donald A. Chester, P.E., Town Engineer/DPW Superintendent *JAC*
Date: August 25, 2005

1. The applicant shall construct the proposed access to conform to the following applicable design requirements listed in Section 153-19 of the Town of Great Barrington Code:
 - A. Permits. Any abutting property owner(s) desiring to gain access to a way by means of a common driveway that serves no more than three (3) dwelling units may do so only in accordance with the provisions of a permit issued by the Board of Selectmen.
 - B. Number of units accessed. A common driveway shall provide access to no more than three (3) dwelling units, indicated on the attached plan as Lots 1, 2 & 3.
 - C. Frontage. Frontage on a common driveway may not be used to satisfy zoning frontage requirements. Each lot passed by the common driveway shall have access on a way acceptable to the Planning Board.
 - D. Design Requirements. Design requirements for common driveways shall be the same as those for driveways under § 153-14A through K of the Subdivision Rules and regulations of the Great Barrington Planning Board. The design shall, in the opinion of the Board of Selectmen and the Highway Superintendent, assure adequate safety and access for emergency vehicles. These criteria are as follows:
 1. The applicant shall construct the proposed access to conform to the following applicable design requirements listed in Section 153-14 of the Town of Great Barrington Code:
 - B. Driveway location as shown on the attached plan is acceptable, with regards to alignments with the way, profile, sight distance conditions and not located at the extreme edge of the property.
 - F. Entrance elevation at the point of entry into the public right-of-way shall be no more than the elevation of the shoulder of the road.

- G. Driveways should be so constructed that water from the driveway shall not drain onto the crown of the road.
 - H. In no instance shall the edge of the driveway entering onto the road conflict with the flow of surface water runoff.
 - J. Pitch of driveway shall be downward from the edge of the road to sideline of the town right-of-way or front property line.
 - K. Driveways should be located to the best advantage with respect to the alignment with the way, profile, sight distance conditions and property sidelines. In no instance shall a driveway intersect the way at less than a sixty degree angle.
2. Install a paved driveway apron in accordance with the following requirements:
- A. Apron dimensions: Width = 22-feet maximum along the roadway which includes a 3-foot radius curb on each side. Length = 5-feet minimum from edge of roadway.
 - B. Place 3-inches of bituminous concrete on 12-inches of compacted gravel.
 - C. Place asphalt tack coat along the edge of the road where the apron meets the edge of the existing pavement.

The applicant agrees to notify the D.P.W. Superintendent (528-0867) at least 48 hours prior to the installation of the paved apron.

3. Should there be, after completion of the driveway, discharges of water, stones, or silt onto the public way or onto property of any abutters or neighbors, the property owner shall take whatever steps are necessary to eliminate such discharges.
- E. Origin of driveway. A common driveway must originate on approved frontage and must observe a twenty-five foot setback from the sideline between the lot of origin and a lot not served by the common driveway.
 - F. Minimum width. The traveled way shall have a minimum width of fourteen (14) feet.
 - G. Easements. The application for a common driveway must be accompanied by a declaration of covenants, easements and restrictions for the use and maintenance of said common drives.
 - H. The sale of lots and/or the erection of buildings is prohibited until such time as the common driveway has been constructed in accordance with the permit approval plan and until the Board of Selectmen has written verification that all covenants, easements and restrictions have been recorded in the Southern Berkshire Registry of Deeds.



PLANNING BOARD
Town Hall
Great Barrington, MA 01230

September 2, 2005

The Board of Selectmen
Burke LaClair, Town Manager
Town Hall
334 Main Street
Great Barrington, MA 01230

RE: Nolan Common Driveway Application, Blue Hill Road

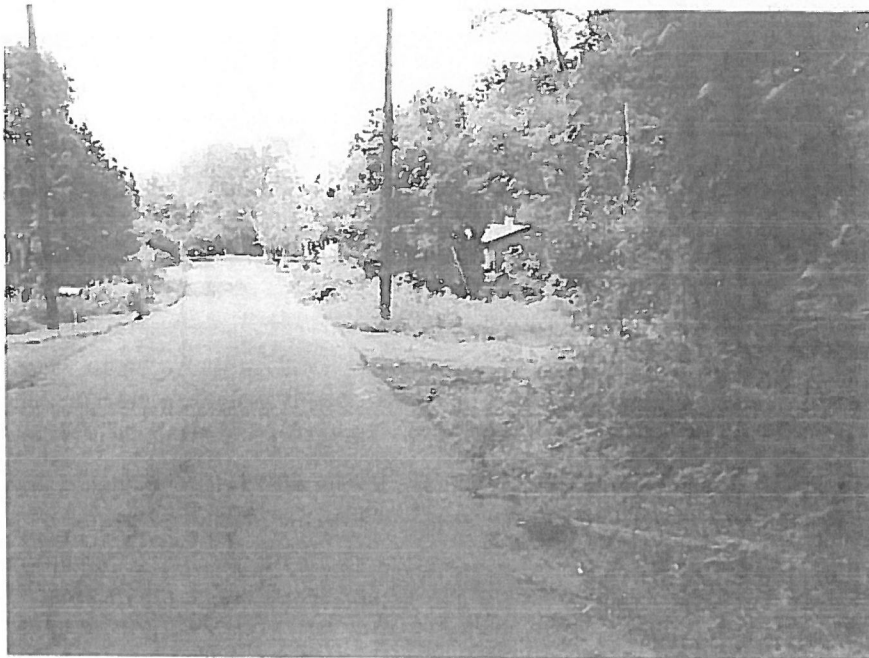
Dear Selectmen and Mr. LaClair:

At its meeting on August 11, 2005, after an inspection of the site, the Planning Board voted to forward a positive recommendation to allow the construction of a common driveway to serve three dwelling units located on Blue Hill Road presently being developed by Mr. William Nolan.

I apologize for any confusion which has been created by our comment regarding a driveway that had previously been approved; it was our intention to clarify the existing condition noted on our site visit, that is, the existing home is on Lot #2.

For the Great Barrington Planning Board,

Donald O. Goranson



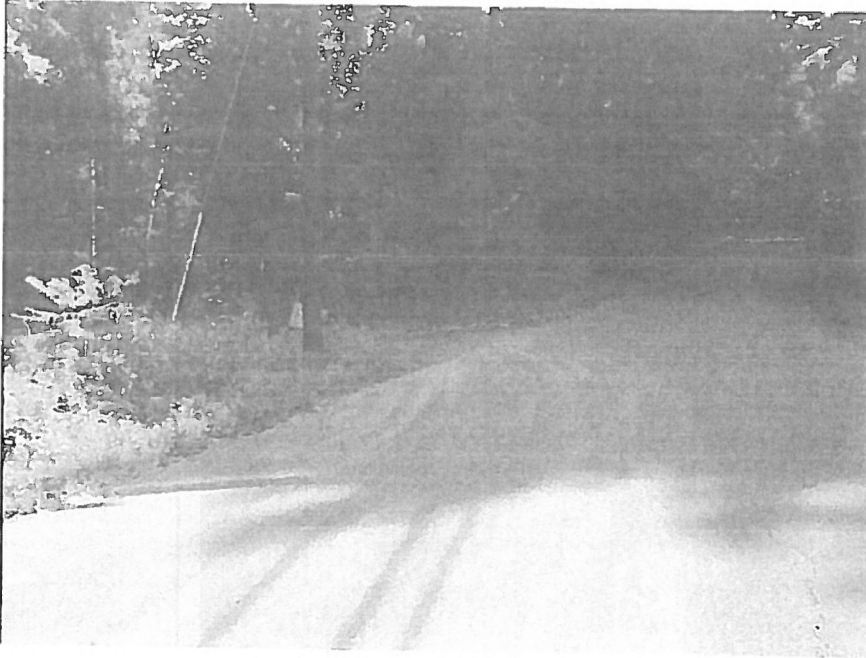
William Nolan
31 Blue Hill Road
Common Driveway

Looking west



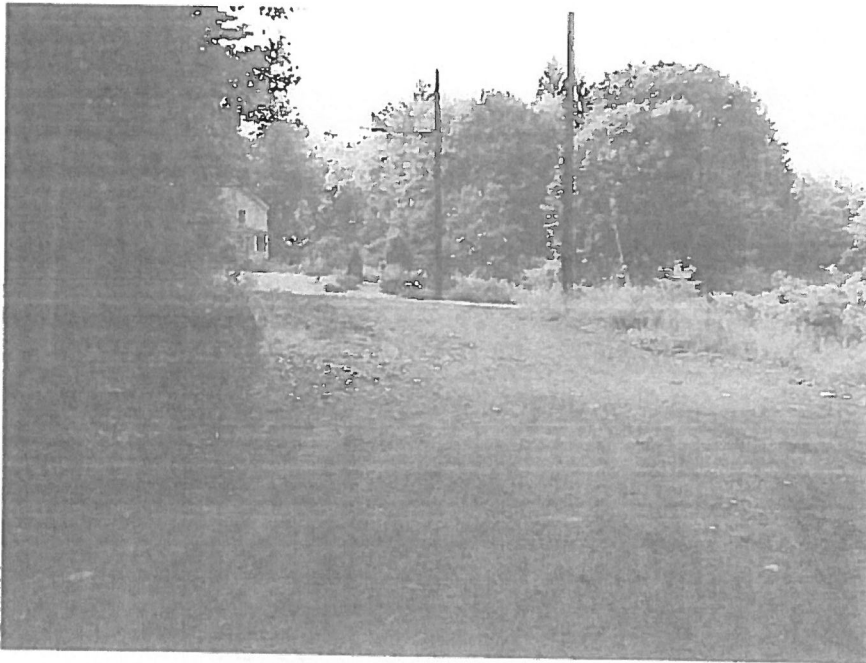
William Nolan
31 Blue Hill Road
Common Driveway

Looking north



**William Nolan
Blue Hill Road**

Looking east



**William Nolan
31 Blue Hill Road
Common Driveway**

Looking south

Town Hall, 334 Main Street
Great Barrington, MA 01230



Telephone: (413) 528-5187
Fax: (413) 528-2290

TOWN OF GREAT BARRINGTON
MASSACHUSETTS

PLANNING BOARD

August 15, 2005

Board of Selectmen
Town Hall
Great Barrington, MA

RE: Driveway Permit Application
Nolan

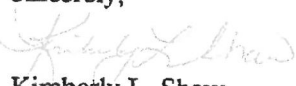
Dear Members of the Board of Selectmen;

At their meeting of August 11, 2005, the Planning Board voted to forward a favorable recommendation on the common driveway permit for William Nolan on Blue Hill Road.

The Board wants to bring to your attention that the driveway would serve lot 2 and not lot 3 as per the approved permit.

Thank you for the opportunity to comment.

Sincerely,


Kimberly L. Shaw
Planning Board Secretary

8-25-05

re: Nolan Common Driveway

Per Pat Kinne, Con. Comm.
has no comments on
application.

PETER J. BREWER
ATTORNEY AT LAW
32 MAHAWE STREET POST OFFICE BOX 1059
GREAT BARRINGTON, MASSACHUSETTS 01230

ADMITTED TO
PRACTICE IN MASSACHUSETTS
AND NEW YORK

TELEPHONE (413) 528-6290
FAX (413) 528-6283
E-MAIL peter.brewer@verizon.net

VIA FAX to 528 2290

September 6, 2005

Mr. Burke E. LeClair, Town Manager

Board of Selectmen

Town of Great Barrington

RE: Nolan Shared Driveway Permit

Dear Mr. LeClair and Board Members:

As I have made all the revisions requested in the Declaration of Restrictions, and Mr. Goranson has clarified the Planning Board's letter, I assume this application is ready for approval tonight as a matter of course; therefore, I do not intend to appear tonight.

Please let me know if you see problems or impediments to the approval of this application.

Very truly yours,

Peter J. Brewer

PJB/ejb

cc: Mr. Nolan (w/encl.)

LEONARD KOPELMAN
DONALD G. PAIGE
ELIZABETH A. LANE
JOYCE FRANK
JOHN W. GIORGIO
BARBARA J. SAINT ANDRE
JOEL B. BARD
JOSEPH L. TEHAN, JR.
THERESA M. DOWDY
DEBORAH A. ELIASON
RICHARD BOWEN
DAVID J. BONESKI
JUDITH C. CUTLER
KATHLEEN E. CONNOLLY
DAVID C. JENKINS
MARK R. REICH
BRIAN W. RILEY
DARREN R. KLEIN
JONATHAN M. SILVERSTEIN
ANNE-MARIE M. HYLAND
JASON R. YALERMAN
GEORGE X. PUCCI

JANET HETHERWICK PUMP REY
DIRECTOR WESTERN OFFICE
WILLIAM HEWIG III
JEANNE E. MCKNIGHT

BY FACSIMILE - (413)528-2290

KOPELMAN AND PAIGE, F. C.

ATTORNEYS AT LAW

31 ST. JAMES AVENUE

BOSTON, MASSACHUSETTS 02116-4102

(617) 598-0007
FAX (617) 654-1735

LENDEN OFFICE
(413) 637-4200

NORTHAMPTON OFFICE
(412) 586-6632

WORCESTER OFFICE
(508) 752-0203

August 26, 2005

KATHLEEN M. O'DONNELL
PATRICIA A. CANTOR
THOMAS F. LANE, JR.
MARY L. GIORGIO
MICHELE E. RANDAZZO
THOMAS W. MCENANEY
KATHARINE GOREE DOYLE
LAUREN F. GOLDBERG
JEFFREY A. HONIG
CREGG J. CORBO
RICHARD T. HOLLAND
ELIZABETH R. CORBO
MARIA C. ROTA
VICKI S. HAREH
JOHN J. GOLDBERSON
SHIRIN EVERETT
BRIAN E. GLENNON, II
JONATHAN D. EICHMAN
JOSEPH E. FAIR
LAURA H. PAWLE
CAROLYN M. MURRAY
JACKIE COWIN
SARAH N. TURNER
JEFFREY T. BLAKE
BRIAN M. MAGER
CAROLYN KELLY MACWILLIAM
ANNE C. ROEBENBERG
PETER L. MELLO

Mr. Burke E. LaClair
Town Manager
Great Barrington Town Hall
334 Main Street
Great Barrington, MA 01230

Re: William Nolan Common Driveway Application

Dear Mr. LaClair:

You have requested that I review a proposed Declaration of Covenants, Easements and Restrictions (the "Declaration") submitted to the Town by William Nolan (the "Applicant") in connection with his Application for Access to Public Way. Section 153-19-G of the Town Code (the "Common Driveway Bylaw") states that the application for a common driveway must be accompanied by a "declaration of covenants, easements and restrictions for the use and maintenance of said common areas." In my opinion, the proposed Declaration grants the easements and restrictions required by the Common Driveway Bylaw. However, it is also my view that the Declaration does not satisfy the requirement for maintenance of the common driveway because it contains inadequate mechanisms for administering and enforcing the maintenance requirement, in particular the assessment and collection of maintenance fees.

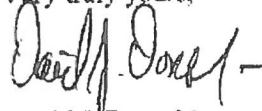
I recommend that the Applicant revise the Declaration to include the creation of an association comprised of the individual lot owners. The association should have the power to levy assessments on the lot owners, place liens on the individual lots and foreclose said liens. The Applicant may wish to substitute for the seventh through ninth paragraphs of his Declaration provisions similar to those contained in Article II and Article III of the declaration submitted in connection with North Birchridge Drive (copy enclosed). When incorporating these additional provisions into the Declaration, the Applicant should be certain to include snow removal as a responsibility of the association. In addition, I note that common driveway designation stated at the end of the third paragraph and in the fourth paragraph of the Declaration should include the word "Proposed" as in, "Proposed 16' Wide Gravel Driveway."

KOPELMAN AND PAIGE, P.C.

Mr. Burke E. Lalair
Town Manager
August 26, 2005
Page 2

Please contact me if you have any questions regarding this matter.

Very truly yours,



David J. Doneski

DJD/LHP/eon

Enc.

cc: Board of Selectmen
259534/GRBA/0001



TOWN OF GREAT BARRINGTON MASSACHUSETTS

BOARD OF ASSESSORS

EXECUTIVE SUMMARY

FY2021 Tax Classification Hearing held on September 9, 2020

BACKGROUND: At the Tax Classification Hearing the Selectboard is required to vote to implement one or a combination of four classification options for distributing the tax levy among property owners. The options are: **1) Open Space Discount, 2) Residential Exemption, 3) Small Commercial Exemption or 4) Single or Split Tax Rate.**

The Town currently has a single tax rate with no exemptions or discounts given to specific classes of property. A vote to grant discounts or exemptions to specific property classes will result in a higher tax rate for non-qualifying property owners as the tax burden is shifted away from the exempted recipients. A vote in favor of more than one option will result in different tax rates for different property classes. **Regardless of the classification option(s) chosen the amount of the overall tax levy will not change.**

Historically and as part of their annual budget policy, the Selectboard and Finance Committee has endorsed the single tax rate option providing no exemption or discount to a particular property class or group. Voting a residential factor of 1.00 affirms a single tax rate and the proportionate sharing of the tax levy between all classes of property. Voting a residential factor of less than 1.00 would split the tax rate, thereby shifting the tax burden away from the residential class and onto commercial, industrial and personal property owners. Two separate tax rates would be created, a lower tax rate for residential and open space and another, higher tax rate, for commercial, industrial and personal property owners. Land enrolled in Ch. 61, 61A or 61B would be subject to the higher tax rate as it will be classified as commercial for taxation purposes.

Exemption & Discount Options

Open Space Discount

Open Space is defined as land maintained in an open or natural condition and must contribute significantly to the benefit and enjoyment of the public. It does not include lands taxable under the provisions of MGL Chapter 61, 61A, or 61B, lands with a permanent conservation restriction or lands held for the production of income. The Open Space discount is up to 25% of the selected residential factor. By discounting a certain percentage of value attributable to Open Space the tax levy burden is shifted onto residential rate payers thereby increasing their tax rate. Presently, no lands are classified as Open Space because those that might benefit receive a greater discount by enrollment in Chapter Land options.

Recommendation: The Board of Assessors does not recommend adoption of the Open Space Discount

Residential Exemption

The *Residential Exemption* grants an exemption to property that is the principal residence or domicile of a taxpayer. Under M.G.L c.59, § 5C the exemption amount may not exceed 35% (\$140,178) of the average assessed value (\$400,508) of all residential class properties. Granting the exemption increases the residential tax rate as it shifts the tax burden, within the entire residential class, away from lower valued owner occupied dwellings to dwellings valued at greater than the breakeven, multi-family properties, apartment buildings, vacant land and non-domiciled property owners. Properties of domiciled taxpayers valued below the breakeven will pay fewer taxes while those valued higher will pay more. Currently, only thirteen of 351 Massachusetts communities grant Residential Exemptions. These communities typically have a large number of apartment buildings (Boston, Brookline, Cambridge, Somerville & Chelsea) or a disproportionately large number of second homes (Cape Cod & the Island communities).

Recommendation: The Board of Assessors does not recommend adoption of the Residential Exemption

Small Commercial Exemption

The *Small Commercial Exemption* may be applied to certain commercial properties whose assessment is less than \$1,000,000 and occupied by businesses certified by the Department of Employment & Training as having no more than an average of ten employees in the previous year. If adopted, up to 10% of the assessed value of an eligible property would be exempt. The property owner is the direct beneficiary of the tax savings and is not required to pass any savings onto the tenants. The total gross value of the Small Commercial Exemption is redistributed to the non-qualifying commercial property owners in the form of a higher tax rate.

Recommendation: The Board of Assessors does not recommend Adoption of the Small Commercial Exemption

Single or Split Tax Rate

Adopting a *Single Tax Rate* requires the Selectboard to vote to maintain a residential factor of 1.00. A Single Tax Rate allows for all classes of property to pay only their share of the tax levy without shifting the tax burden to any particular property class. Voting to split the tax rate shifts the tax burden from the residential class to the commercial, industrial and personal property (CIP) classes and requires the Selectboard to vote for a residential factor of less than 1.00. The minimum residential factor for the Town as set by the Department of Revenue is .856539 which allows for a “CIP” shift of 1.50.

Recommendation: The Board of Assessors recommends adopting and maintaining a Single Tax Rate

Notables for Fiscal Year 2021

Levy \$24,636,380 for FY21 is \$24,636,380; an increase of \$642,949

FY	Levy	% Change From Prior
2021	\$ 24,636,380	2.68%
2020	\$ 23,993,431	2.10%
2019	\$ 23,500,999	8.93%
2018	\$ 21,574,492	3.56%
2017	\$ 20,832,972	5.17%

Total Taxable Value \$1,540,736,695

Property Class	FY 2021	FY 2020	Difference	% Change
Residential	\$1,200,780,171	\$1,187,159,704	\$13,620,467	1.15%
Commercial	\$ 269,810,614	\$ 266,651,310	\$ 3,159,304	1.18%
Industrial	\$ 14,016,600	\$ 14,105,600	\$ (89,000)	- 0.63%
Personal Property	\$ 56,129,310	\$ 55,475,845	\$ 653,465	1.18%
Total	\$1,540,736,695	\$1,523,392,459	\$ 17,344,236	+1.14%

Tax Rate

The tax rate is calculated by dividing the tax levy (\$24,636,380) by the total value of all taxable property 1,540,736,695 x 1,000. This yields a tax rate of \$15.99 per \$1,000 of valuation, an increase of \$.24 from last year's rate.

FY	Tax Rate	Change From Prior Year
2021	\$15.99	\$ 0.24
2020	\$15.75	\$ 0.03
2019	\$15.72	\$ 0.74
2018	\$14.98	\$ 0.38
2017	\$14.60	\$ 0.57

Excess Levy Capacity \$1,296,618

Excess levy capacity is the difference between the maximum allowable levy and the amount levied. It is also the amount of additional monies the Town is allowed to raise through taxation but chooses not to.

FY	Max Allowable Levy	Levy	Excess Levy Capacity
2021	\$25,932,998	\$24,636,380	\$1,296,618
2020	\$24,973,637	\$23,993,431	\$ 980,206
2019	\$24,230,886	\$23,500,999	\$ 729,887
2018	\$23,097,867	\$21,574,492	\$1,523,375
2017	\$22,460,695	\$20,838,972	\$1,627,723

New Growth \$24,758,096 / \$389,940

New growth is value created through the construction of new homes, additions, substantial remodels or the creation of condos. Lot splits, subdivisions, new personal property assets and an increase in non-domiciled property ownership also contributes to new growth. The impact new growth has on expanding the levy limit is calculated by multiplying new growth value (\$24,758,096) by the prior year tax rate (\$15.75). For FY21 this yields \$389,940 in tax levy growth or new tax dollars to the Town.

FY	New Growth	Res	Comm	Ind	PP	New \$\$
2021	\$24,758,096	\$14,191,500	\$6,301,766	\$0	\$ 4,264,830	\$389,940
2020	\$12,358,418	\$ 5,642,793	\$2,050,200	\$ 96,400	\$ 4,569,025	\$194,274
2019	\$36,207,737	\$18,293,500	\$7,991,300	\$352,300	\$ 9,570,637	\$542,392
2018	\$21,784,685	\$13,180,200	\$2,398,240	\$ 5,700	\$ 6,200,545	\$318,056
2017	\$37,368,285	\$23,105,900	\$1,873,700	\$481,500	\$11,907,185	\$533,933

Median & Average Single Family Home \$313,950 / \$400,508

Single family home value increases are the result of the ongoing cyclical inspection program. Analysis of 2020 single family arms-length sales indicated support for an upward adjustment to residential values when compared to assessments.

FY	Median Value	Median Tax	Change From Prior Yr	Average Value	Average Tax	Change From Prior Yr
2021	\$313,950	\$5,020	\$ 80	\$400,508	\$6,404	\$124
2020	\$313,650	\$4,940	\$135	\$398,754	\$6,280	\$133
2019	\$305,650	\$4,805	\$296	\$391,055	\$6,147	\$409
2018	\$301,000	\$4,509	\$151	\$383,072	\$5,738	\$180
2017	\$298,500	\$4,358	\$124	\$380,703	\$5,558	\$168

Median & Average Commercial \$472,000 / \$803,825

The median assessed value decreased from \$489,000 to \$472,000
The average assessed value decreased from \$804,169 to \$803,825

FY	Median Value	Median Tax	Change From Prior Yr.	Average Value	Average Tax	Change From Prior Yr
2021	\$472,000	\$7,547	-\$155	\$803,825	\$12,853	\$ 187
2020	\$489,000	\$7,702	\$839	\$804,169	\$12,666	\$ 589
2019	\$436,550	\$6,863	\$700	\$768,239	\$12,077	\$1,432
2018	\$411,400	\$6,163	\$ -76	\$710,615	\$10,645	\$ 264
2017	\$427,300	\$6,239	\$324	\$711,070	\$10,381	\$ 581

CPA Revenue \$546,000

FY21 is the seventh year a 3% surcharge will be levied against 3,873 eligible real property parcels. Estimated CPA revenue is \$546,000. For residential property owners, the first \$100,000 of assessed value is exempt from the surcharge. Commercial property owners receive no exemption. The median single family home valued at \$313,950 will pay a surcharge of \$103.00. The median commercial property valued at \$472,000 will pay \$226.00.

FISCAL IMPACT: Not applicable beyond the FY21 property tax levy that be maintained at \$24,636,380.

NEXT STEPS/TIMEFRAME: Vote the tax classification at the Classification Hearing held Wednesday, September 9, 2020 which will allow the first half FY21 tax bills to be mailed on or before September 30, 2020.

RECOMMENDATION: Adoption of a single tax rate of \$15.99 per \$1,000 of valuation for all classes of property for FY21.

PREPARED & PRESENTED BY: /s/ Shaun P. McHugh, Principal Assessor Date: 9/4/2020

REVIEWED AND APPROVED: /s/ Mark Pruhenski, Town Manager Date: 9/4/2020